INFORMATION LETTER

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Supreme Court Sustains Constitutionality of Price Control Act and of Exclusive Statutory Procedure for Review of Price Regulations

On March 27, 1944, the United States Supreme Court, in a six to three decision, sustained the constitutionality of the Emergency Price Control Act and of the limitation prescribed in the law which prohibits, as the Court interpreted the statute, any Federal District Court or State court of original jurisdiction from considering the constitutional validity of any price regulation, even in criminal cases. Because of the sweeping importance of the decision in this case, *Yakus* v. *United States*, as a measure of the constitutional validity of wartime legislation, and particularly in view of the many proposals now being urged upon Congress for the amendment of the procedural provisions of the Act, the salient portions of both the majority and minority opinions warrant a full review.

Four basic questions were presented for consideration: The first was whether the powers conferred upon the Administrator to issue maximum price regulations involved an unconstitutional delegation of legislative power. The second question presented was whether the Act should be interpreted to preclude the consideration of the validity of a price regulation by a Federal District Court in a criminal prosecution. The third was whether, if the statute had to be so interpreted, and permitted as the only means of review the procedure of a protest to the Administrator and an exclusive appeal to the Emergency Court of Appeals, it met the constitutional requirements of due process. The fourth issue was whether, assuming that the exclusive appeal to the Emergency Court of Appeals constituted due process, the further prohibition against any consideration of validity in a criminal prosecution, contravened the constitutional requirement of a jury trial or was an unconstitutional interference with the power of the judiciary.

The facts in the case were relatively simple: The defendants had been convicted of violating the maximum price regulation covering the sale of wholesale cuts of beef. The jury found that the violations were willful. The defendants had filed no protest to the regulation with the Administrator, but at the trial in the District Court offered to show that the regulation did not conform to the standards prescribed by the Act, and that the regulation was unconstitutional. Any consideration of these issues concerning the validity of the regulation was foreclosed in the lower court.

I.

Speaking for the majority of the Court, Mr. Chief Justice Stone first considered whether the Emergency Price Control Act was constitutional in view of the broad delegation of power to the Administrator. The Court reviewed and quoted at length from the statement of purposes in Section 1 of the statute, and from the standards set forth in Section 2 authorizing the Administrator to establish prices which "in his judgment will be generally fair and equitable and will effectuate the purposes" of the Act. Pointing out that the power of Congress to control prices as a war emergency measure was not challenged, the Court concluded that the Act contained sufficiently defi-

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SELECTIVE SERVICE ADOPTS STRICT DEFERMENT POLICY

Attitude Is Outlined in Reply to N.C.A. Letter of Appeal to President

The President has replied through the Selective Service System to a letter addressed to him by Association President G. Sherwin Haxton on March 22 setting out the concern felt by the industry regarding the rigorous policy on occupational deferments.

The reply deals chiefly with the question of deferment of registrants under 26 years of age, and states: "It is felt that the primary obligation of all registrants is to military service, and that of the younger men in particular there are few who are so indispensable as to have their military service deferred for any substantial period."

In his letter to the President, Mr. Haxton said:

The present rigorous policy on occupational deferment of key men and supervisors as applied to the canning

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CANNED PEAS REMOVED FROM RATIONING DURING APRIL

Frozen Foods Also Rated Point-free in WFA-OPA Move to Release Tight Storage Space

Canned peas were removed from rationing for the period April 2 through April 29, according to the point value adjustments made for that period by the Office of Price Administration. In making the announcement on March 30, OPA stated it expected that canned peas would be at zero point value only temporarily. The move was taken, it was explained, to enable movement of present supplies into consumer hands before the new packs reach distribution levels.

Other changes in the new table of point values show 14-oz. and smaller containers of tomato juice reduced to one point; and soups in over two- and including three-pound containers reduced two points to a new value of 16. However, 46-ounce containers of tomato juice were increased two points.

Point values of canned fruits remain the same, with supplies small. On February 1, 1944, the supply of canned fruits was 39 per cent less than on the same date a year ago, OPA said. In the face of the most acute shortage of canned fruits ever experienced, rationing has made possible the maintenance of a broad selection of these fruits in the retail store. The present point values are required if the meager supply is to last until the new pack is available, it was stated.

An important change brought about by the April point value table is the removal of frozen fruits and vegetables from rationing. This action was taken, OPA stated, at the request of the War Food Administrator, to free cold storage space for meats, dairy, poultry products and other foods expected from 1944 production.

Frozen fruits and vegetables going to zero on April 2 are apricots, blackberries, boysenberries, cherries, currants, dewberries, grapes, loganberries, olympicberries, peaches, raspberries, strawberries, youngberries, blueberries, elderberries, huckleberries, mixed fruits (over 20 per cent by weight of

rationed frozen fruits), plums, prunes, cut corn, lima beans and peas. The zero value applies to both consumer and industrial packages of all frozen commodities.

"The reduction of frozen fruits and vegetables to zero point value is a direct result of the meat storage problem," Price Administrator Chester Bowles said. "So far as the supply and movement of rationed frozen fruits and vegetables are concerned, rationing controls were working well. The records show that supplies for civilians have been used at about the rate planned by OPA. On February 1, 1944, the supplies remaining from 1943 production were just about what were needed to last until the 1944 packing season begins."

It was recalled, however, that several of the frozen fruit and vegetable items had previously been removed from rationing. These are apples, applesauce, rhubarb, asparagus, broccoli, brussels sprouts, cauliflower, mixed vegetables, snap beans, spinach, beets, carrots, leafy greens, pumpkin, squash, and prepared dry beans. All frozen fruit juices also were at zero.

OPA revealed that on February 1, the total amount of frozen fruits and vegetables in storage was slightly over 378 million pounds. Of this quantity, 135,763,000 pounds or 38.8 per cent has been subject to rationing control since January 1, 1944. This is less than 9 per cent of the total of all foods occupying cold storage space on February 1, 1944, according to OPA.

The letter of War Food Administrator Marvin Jones to Price Administrator Bowles, which resulted in reduction of frozen fruits and vegetables to zero, in part, said:

"The critical shortage of cold storage space has made it necessary to take several steps to free as large a portion of that space as possible for use in storing meats. In view of the importance of freeing storage space as rapidly as possible, it is desirable that there be no impediments to the movement of frozen fruits and vegetables. Therefore, we request that you suspend the exercise of your authority to ration frozen fruits and vegetables until further notice."

The other April point value adjustments and the reasons given by OPA for each, follow:

Peas (No. 2 can)—Decreased 3; new value zero. The stock position of peas on February 1, 1944, compared to February 1, 1943, shows an increase of approximately six million cases. Much of this stock is of standard quality and increased movement is necessary to enable present supplies to move out before the new pack reaches consumer levels of distribution. The point value, therefore, was dropped to zero.

Carrots (No. 2 can)—Decreased 2; new value, 3 points. Recent information indicates there will be a pack of about 1½ million cases available for civilians during 1944. Because of this estimated increased supply, point values of the item were reduced.

Tomato juice—Because some supplies in small containers still remain from the previous year, steps were taken to move the small sizes by reducing them to one point. Old point values of these sizes were: Up to and including seven ounces, 2; over seven and including 10 ounces, 3; over 10 and including 14 ounces, 5. The 46-ounce containers were increased from 14 to 16 points to adjust the point value with that of the No. 10 container.

Soups (Over two and including three pounds)—Decreased 2; new value 16. The new value is an adjustment between the 48-ounce container and the 51-ounce container.

Fig and plum jams—Decreased 2 points per pound; new value zero. Unusually heavy production and slow movement of these flavors, which normally are not among the most popular made a zero point value necessary.

Tabulated, the point value changes are as follows:

	Point Value Old	New
Canned Vegetables		
Peas (No. 2)	3	0
Carrots (No. 2)	5	3
Canned Juices		
Tomato juice:		
Over zero and incl. 7-oz.	2	1
Over 7-oz. and incl. 10-oz.	3	1
Over 10-oz. and incl. 14-oz.	5	1
46-oz.	14	16
Jams		
Fig and plum (per lb.)	2	0
Frozen Fruits and Vegetables		
Apricots, blackberries, boysenberries, cherries, currants, dewberries, grapes, loganberries, olympicberries, peaches, raspberries, strawberries, youngberries (per lb.)	12	0
Blueberries, elderberries, huckleberries, mixed fruits (over 20 percent by weight of rationed frozen fruits), plums, prunes (per lb.)	6	0
Cut corn, lima beans, peas (per lb.)	12	0
Specialties		
Soups (over 2 lbs. and incl. 3)	18	16
Canned Fish		
Mackerel	12	8
Sardines (incl. Calif. pilchards)	12	8
All products containing more than 20% of bonito, mackerel, oysters, salmon, sardines, incl. Calif. pilchards, shrimp, tuna, yellowtail	12	8
Meats in Tin or Glass		
Pork sausage (bulk or link, per lb.)	3	2
Chili con carne	3	2
Ham, chopped	4.5	3.6
Pork, chopped	4.5	3.6
Deviled ham (per lb.)	4	3
Deviled tongue (per lb.)	4	3
Ham (whole or piece, per lb.)	6	5
Luncheon meat, including spiced	4.5	3.6
Luncheon meat (less than 3 lbs.)	5	4
Meat loaf (per lb.)	4	2
Meat spreads (per lb.)	4	3
Pork and soya links	2	1
Potted and deviled meats (per lb.)	4	3
Pork soya segments	2	1
Sausage in oil (per lb.)	3	2
Ham, spiced	4.5	3.6
Tongue, beef (per lb.)	5	4
Tongue, pork, veal or lamb (per lb.)	4	3
Vienna sausage (per lb.)	3	2

COMMODITY COMMITTEES

Additional Groups Named by OPA and WFA Cover Fruit, Baby Food, Beets, Carrots, Apple Products

Four additional joint industry advisory committees, now being appointed by the War Food Administration and the Office of Price Administration to represent canners during the 1944 season, were named March 31. Members of the string bean, lima bean, sweet corn, pea, asparagus, spinach, tomato and tomato product committees were published in last week's Information Letter. The new committees designated by WFA and OPA follow:

Canned Beets and Carrots

W. A. Chick, California Packing Corp., San Francisco, Calif.

Roy E. Chittenden, Perfection Canning Company, Newark, N. Y.

Bredo Christensen, Rio Sun Company, McAllen, Texas.

A. T. Flynn, Reid-Murdoch & Company, Ellsworth, Mich.

E. A. McCornack, Eugene Fruit Growers Association, Eugene, Ore.

Henry Townend, Lord-Mott Company, Inc., Baltimore, Md.

Russell H. Winters, The Larsen Company, Green Bay, Wis.

Canned Fruits

Fred Drew, Drew Canning Co., Campbell, Calif.

Alfred W. Eames, California Packing Corp., San Francisco, Calif.

E. E. Huddleston, Santa Cruz Fruit Packing Co., Oakland, Calif.

M. C. Hutchinson, Michigan Fruit Canners, Inc., Fennville, Mich.

Roy E. Ingalls, Washington Packers, Inc., Sumner, Wash.

Ivan H. Moorhouse, Olympia Canning Co., Olympia, Wash.

Robert C. Paulus, Paulus Bros. Packing Co., Salem, Oreg.

G. N. Pfarr, Tri-Valley Packing Assn., San Francisco, Calif.

Frank H. VanEenwyk, Fruit Belt Preserving Co., East Williamson, N. Y.

APPLE FOOD PRODUCTS

Charles J. Allen, Battletown Fruit Co., Staunton, Va.

Frank A. Armstrong, Jr., National Fruit Product Co. Inc., Winchester, Va.

J. P. Arthur, Shenandoah Valley Apple Cider and Vinegar Co., Winchester, Va.

Frank A. Estes, Olympia Canning Co., Olympia, Wash.

George Hallauer, Valley Evaporating Co., Yakima, Wash.

C. H. Kemper, Speas Co., Kansas City, Mo.

Donald Morgan, John C. Morgan Co., Traverse City, Mich.

R. E. Oehlmann, Sebastopol, Calif.

H. G. Wessendarp, The Zeropack Co., Cincinnati, Ohio.

C. C. Ross, Ross Packing Co., Selah, Wash.

Frank H. VanEenwyk, Fruit Belt Preserving Co., East Williamson, N. Y.

Ed Welkley, Welkley Brothers, East Rochester, N. Y.

J. E. Klahre, Apple Growers Assn., Hood River, Oreg.

H. E. Meinhold, Duffy-Mott Company, Inc., New York, N. Y.

Elmer J. Yoder, C. H. Musselman Co., Biglerville, Pa.

Walter Wegner, Walter Wegner Foods, Williamson, N. Y.

BABY FOOD

C. C. Culp, Stokely Bros. & Co. Inc., Indianapolis, Ind.

Dan Gerber, Gerber Products Co., Fremont, Mich.

Robert Hooven, Beechnut Packing Co., Canajoharie, N. Y.

C. C. Lippman, Libby, McNeill & Libby, Chicago, Ill.

L. M. Melius, H. J. Heinz Co., Pittsburgh, Pa.

G. E. Egger, Harold H. Clapp, Inc., Rochester, N. Y.

R. E. Lambeau, The Larsen Co., Green Bay, Wis.

Sol Paley, Paley-Sachs Food Co., Houston, Texas.

Texas Grapefruit Requirement

All grapefruit moved interstate from the Texas counties of Cameron, Hidalgo, and Willacy is now required to be sterilized in accordance with the methods authorized in Sec. 301.64-4a of Circular 472 of the United States Bureau of Entomology and Plant Quarantine, revised as of September 25, 1941. Increasing numbers of infestations of Mexican fruitflies now occurring in the regulated area of the Rio Grande Valley has made such sterilization necessary. This requirement is effective April 3, 1944, and continues throughout the harvesting season to the close of June 15, 1944.

Grapefruit Pomace Purchases

Announcement is made that purchases of quantities of grapefruit pomace, by the Federal Surplus Commodities Corporation, are contemplated, and that offers for the sale of this product are now solicited. Until further notice, offers may be submitted for any quantity in multiples of carload lots, and if accepted will become contracts with FSCC.

Offers may be submitted by letter or telegram and must state the number of pounds offered, price per pound f.o.b. vendor's plant, description of packaging, delivery period and rate of delivery, delivery point and railroad serving, physical location (name of town and State) of the commodity if other than f.o.b. point, and name and address of vendor.

Further details of this purchase program are given in Announcement No. FSC-1879.

FSCC Changes Specifications for Concentrated Citrus Juice

The specifications for concentrated citrus juices contained in Announcement FSC-1808 covering the Federal Surplus Commodity Corporation purchase program for these products were amended March 23, according to an announcement by the Office of Distribution of the War Food Administration. The purchase program was announced in the INFORMATION LETTER for February 5. In the amended FSC-1808, the sections on specifications for orange juice and grapefruit juice read as follows:

PURE CONCENTRATED ORANGE JUICE

Specifications: Concentrated orange juice shall meet the requirements for U. S. Grade A canned concentrated orange juice as defined in the U. S. Standards for Grades of Canned Concentrated Orange Juice. The Brix value shall be not less than 65° when determined in accordance with the Refractometric Method and corrected for anhydrous citric acid.

PURE CONCENTRATED GRAPEFRUIT JUICE

Specifications: Concentrated grapefruit juice shall have a Brix value of not less than 60° when determined in accordance with the Refractometric Method and corrected for anhydrous citric acid. Ascorbic acid (vitamin C) shall be present in the amount of not less than 2 milligrams per gram of concentrated grapefruit juice. The concentrate shall contain sulphur dioxide in the amount of not less than 800 ppm. and not more than 1,000 ppm. All concentrated grapefruit juice, when reconstituted, shall have color, odor and flavor similar to fresh grapefruit juice.

RENEGOTIATION APPEALS

U. S. Tax Court Issues Rules Governing Procedure and Form of Petition

Rules governing appeals to the Tax Court of the United States by contractors from excess profit determinations by the War Contracts Price Adjustment Board were issued by the Court March 27 to define the procedure and form of petition for appeal.

As reported in the INFORMATION LETTER for March 4, 1944, the Tax Court on appeal makes a new redetermination of the question whether excess profits exist in the particular case. Consequently, the contractor appealing from the War Contracts Price Adjustment Board must file a petition stating the amount of excessive profits in controversy, a specific description of the errors alleged to have been committed by the Board, and a clear and specific statement of the facts supporting the claimed errors. In addition, there are certain technical legal requirements.

It should be noted that the contractor appealing has the burden of proving that the decision of the War Contracts Price Adjustment Board is wrong and that the Board may, in the proceeding before the Tax Court, find that there have been excess profits greater than the amount originally determined by the Board. It is, therefore, possible that, on appeal, the contractor may be required by the Court to repay excess profits greater than those which he is contesting.

Truck Steering Maintenance

Truck operators are warned by the Office of Defense Transportation, in a bulletin on "Steering Maintenance," that badly adjusted or misaligned steering mechanisms "do more to grind tires into powder than any other tire-wearing factor."

The bulletin, one of a series prepared for ODT by the Society of Automotive Engineers, recommends that the steering mechanism should come under the observation of mechanics or inspectors at regular periods, since all too frequently misalignment is discovered at the cost of a tire. Operators are cautioned that no amount of experience and skill is adequate in determining alignment without proper testing equipment. In most communities this type of service is available.

Copies of the bulletin on "Steering Maintenance" may be obtained from the Office of Information, Office of Defense Transportation, Washington 25, D. C.

HEARINGS ON EXTENSION OF PRICE ACT CONTINUED

Administrators of War Agencies Favor Continuance; Industry Witnesses Propose Amendments

Hearings on the extension of the Emergency Price Control Act were continued during the past week by the Senate Banking and Currency Committee. Heads of the War Food Administration, War Labor Board, War Production Board and the Federal Reserve Board testified in favor of continuance of the Act. All of these officials emphasized the continuing dangers of inflation and the essentiality of price control. Industry witnesses who urged amendments to the Act were heard by the Committee after the appearance of the Government officials.

Each of the witnesses concurred in recommending that the Emergency Price Control Act should be continued. The sentiment of the Committee apparently is in accord with this position, for Senator Robert A. Taft, of Ohio, remarked during the hearings that there is no question as to the need to extend the Act; the differences between the witnesses concerned the changes which should be made in the Act. Government witnesses urged that the Act be approved without change, while the industry witnesses contended for various amendments designed generally to safeguard private industry against arbitrary administrative decisions. These suggestions mainly referred to broader judicial review and greater industry participation in establishment of price policies. The problem of what changes are necessary or desirable to be made undoubtedly will be influenced to a large measure by the decisions of the United States Supreme Court on March 27 in which the Court held the Emergency Price Control Act constitutional. Many of the issues decided by the Court relate directly to the issues inherent in the suggested amendments. These decisions are discussed on page 8143.

War Food Administrator Marvin S. Jones testified before the Committee on March 22. He stated that one of the primary reasons for maintaining the stabilization program was the fact that, despite a record farm income, consumer food prices had been kept at a relatively stable level. Senator Taft suggested in his questioning of Mr. Jones that the present OPA power to buy and sell food be transferred to WFA. The senator pointed out that this power had never been exercised by OPA due to lack of appropriations and that it seemed reasonable to have this power centralized in one agency. Mr. Jones testified only generally concerning the grain situation, farm support prices, cattle and milk and Army and Navy purchasing.

On March 23 War Labor Board Chairman William H. Davis urged continuance of food subsidies. He testified that only with their continuance would it be possible to maintain the wage stabilization formula now in operation. If food subsidies are stopped, he said, it would be necessary for him to request a change in wage ceilings. Mr. Davis gave a detailed explanation of WLB policies and the results of its stabilization programs. He contended that wages have been stabilized and that only in a few instances have the price structures for the industries been affected by wage increases permitted by the War Labor Board. He named five industries including the canning industry, in which the industry price structure had been affected, but he pointed out that in the case of the canning industry there were many workers employed at substandard rates.

Chairman Marriner S. Eccles of the Federal Reserve Board and Chairman Donald Nelson of the War Production Board testified before the Committee on March 24. Mr. Eccles testified in detail concerning the fiscal and monetary aspects of inflation. He stated that the liquid money holdings of individuals and business will total by June 30, 1944, $194,000,000,000. This, he said, represents a tremendous inflation potential which must be kept under strict control in order to prevent destruction of the nation's economy and credit structure. He declared that the pressures increasing this potential were becoming stronger and that consequently continuation of price control into the postwar period is essential.

Mr. Eccles was questioned concerning the possibility of balancing the budget. He stated that this could and should be done by maintaining high prices while government expenditures decreased. He emphasized, however, that balancing of the budget depended in great measure upon the continuance of full employment.

Mr. Nelson testified briefly to urge that the Act be extended without amendment. He stated that good administration is what makes an act effective. He expressed the belief that cooperation of WPB and OPA has been very helpful in making the operation of the Price Control Act successful. Mr. Nelson then testified generally concerning production and manpower problems in the course of which he stated that production in this country is only now approaching its peak. This results, he said, from the fact that production in certain types of heavy war equipment is still being increased, although other types of munitions of war have been decreased.

The first industry witnesses were heard by the Committee March 27, when Eric Johnston, president of the U. S. Chamber of Commerce, and Frank Buckner of the United States Wholesale Grocers Association testified. Both witnesses advocated extension of the Act but urged numerous amendments to the present provision. Both Mr. Johnston and Mr. Buckner recommended more direct and effective participation of the industry advisory committees in the formulation of price regulations and policies and argued for more specific statutory provisions concerning administrative procedure, profit control and methods of making price adjustments.

Mr. Johnston stated that OPA should have the unvarying policy of issuing no price regulation without full discussion with the affected industry. He also urged specific provisions concerning profit control and the broadening of judicial review to prevent miscarriage of justice.

Both Mr. Buckner and Mr. Johnston recommended that price increases should be granted at all distribution levels if granted at one level, rather than to attempt to require distributors and wholesalers, for example, to absorb price increases. In urging strengthening of the industry advisory committees, Mr. Buckner suggested that the committees be required to furnish their recommendations in writing and that the Administrator should state his reasons in writing when he fails to follow these recommendations.

Secretary of War Henry L. Stimson appeared briefly March 28 to testify generally in favor of the continuance of the Act without amendment.

To Ration Fruit Specialties

Pickled, spiced and brandied fruits, which were removed from rationing effective last December, will be restored to the processed foods rationing program in June, the Office of Price Administration stated on March 27.

Advance announcement of the decision to restore them to the rationing program is made to permit the trade to liquidate any present stocks which may remain and to help packers make plans for the future, it was said.

SELECTIVE SERVICE ADOPTS STRICT DEFERMENT POLICY

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industry is causing grave concern in the industry, and reports from canners throughout the country reveal that, if continued, the policy will seriously jeopardize the industry's plans to carry out the government's request for an all-out production of processed fruits and vegetables.

In the last two years the supply of manpower available to the processors has been steadily depleted. This year, even more than last, processors will have to depend on housewives, youths, the aged, and volunteer part-time workers. Most of these prospective employees are inexperienced, though willing. Without experienced supervision they are ineffective.

Every processing plant has for some time been stripped to the minimum of essential supervisory and key men. To take more of them will make it impossible to utilize the inexperienced workers and impossible to attain the output which the Government has requested.

Selective Service regulations, themselves, need no revision to retain these few essential men, but the present rigorous policy on occupational deferments will, of unfortunate necessity, reduce production.

Whether the relatively small number of supervisory and key men are more needed for the armed forces or for food processing is a decision for the Government to make. I am presenting the facts in the situation in the belief they will be helpful in arriving at a decision that will best serve the country's interests.

Lieutenant Commander Ford K. Brown, USNR, of the Manpower Division of the Selective Service, in his reply for the Director of the Service stated:

The President has directed that we acknowledge receipt of your letter of March 22, 1944, relative to the above subject. We are also in receipt of letter to this headquarters enclosing copy of above letter.

The importance of this activity has always been recognized, and steps have frequently been taken to insure that key men in it are carefully considered for occupational deferment. We are now directed, by the President, that the calls of the War and Navy Departments must be met, and that our occupational deferment policy has been overlenient. It has, therefore, been directed that the employers of any registrant under 26 years of age for whom they claim deferment must show beyond any doubt that his induction would harm the war effort. It is felt that the primary obligation of all registrants is to military service, and that of the younger men in particular there are few who are so indispensable as to have their military service deferred for any substantial period.

The State Directors will recommend exceptions to the non-deferment policy applying to a registrant under 26 if it can be convincingly shown that he posesses unusual and irreplaceable skills of such a sort that he should not be inducted.

In general all activities, even those declared critical, must prepare to release their younger registrants in accordance with the expressed policy of the armed forces and the direction of the President.

I trust that this letter will help to clarify the situation somewhat.

Other Manpower Proposals

An inter-agency Committee with Paul V. McNutt as Chairman, is undertaking to review all industry in the light of the need of critical war materials on one hand and the need of men for the armed forces on the other hand. This Committee will recommend to Selective Service, policies to be pursued with respect to age groups and occupational deferment.

Several proposals are being discussed in Washington in Congressional Committees and in government agencies, all of which seek in varying degrees to extend the principles of selective service to manpower allocations in industry and agriculture.

The Administration bill would provide, in substance, the universal drafting and allocation of all men up to 45 years old.

Other ideas and bills call for various modifications of the principles of inducting 4F classified men into the Army and the Army's subsequent allocation of these "non-combatants" to critical industries.

Steel Wheel Tractor Tires

The War Food Administration urged on March 28 the withholding of appeals for conversions of tractors from steel wheels to rubber tires. Except in extreme hardship cases, no more conversions can be made for the time being, without depleting stocks of rear tires needed for replacements on tractors already rubber-tired or without delaying the use of new tractors.

In meeting production goals, conversion of steel-wheeled tractors is less important than either the replacement of worn-out tires to keep rubber-tired tractors in use, or the equipment of new tractors with rubber tires, it was stated. Production of tractor tires in the second quarter of 1944 has been scheduled to meet as nearly as possible the estimated requirements for replacements and original equipment, WFA said.

Rogers Appointed to WMC

The appointment of W. J. Rogers, of Fort Worth, Texas, as assistant executive director for business management, was announced March 27 by Paul V. McNutt, Chairman of the War Manpower Commission. He succeeds Vernon A. McGee, who has been appointed deputy executive director. Mr. Rogers goes to WMC from the Bureau of the Budget, in which he has been, since 1942, chief of the unit responsible for agencies engaged in labor supply, training and reemployment.

Blank Named to NWLB

The National War Labor Board, on March 27, announced the appointment of E. F. Blank, director of personnel relations for Jones & Laughlin Steel Corporation, Pittsburgh, Pennsylvania, as substitute industry member of the Board.

Mr. Blank has been industry member of the Third Regional War Labor Board in Philadelphia for more than a year, and resigned that position to accept the appointment with the National Board.

Swayzee OPA Labor Adviser

Appointment of Cleon O. Swayzee as labor relations adviser to the Administrator of the Office of Price Administration and director of its Labor Office has been announced by Price Administrator Chester Bowles. He succeeds Robert R. R. Brooks, who has been named executive assistant to the Administrator.

For more than two years, Mr. Swayzee has been assistant director of the Labor Office, working with Mr. Brooks and liaison officers from the American Federation of Labor, Congress of Industrial Organizations, and railway labor organizations in developing the OPA-labor program.

Meat Canners Name Officers

The following 1944 officers were elected by the National Meat Canners Association at their recent annual meeting: President, L. L. Bronson, Armour & Company, Chicago; vice-president, T. C. Tait, Swift & Company, Chicago; treasurer, Henry Manaster, United Packers, Inc., Chicago; secretary, J. Emmett Clair, Republic Food Products Co., Chicago.

SUPREME COURT SUSTAINS PRICE ACT CONSTITUTIONALITY

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nite standards so as to distinguish it from the National Industrial Recovery Act, which had been declared invalid in the *Schecchter* case in 1935. Speaking for the Court, the Chief Justice stated that:

"The boundaries of the field of the Administrator's permissible action are marked by the statute. It directs that the prices fixed shall effectuate the declared policy of the Act to stabilize commodity prices so as to prevent wartime inflation and its enumerated disruptive causes and effects. In addition the prices established must be fair and equitable, and in fixing them the Administrator is directed to give due consideration, so far as practicable, to prevailing prices during the designated base period, with prescribed administrative adjustments to compensate for enumerated disturbing factors affecting prices. In short, the purposes of the Act specified in § 1 denote the objective to be sought by the Administrator in fixing prices—the prevention of inflation and its enumerated consequences. The standards set out in § 2 define the boundaries within which prices having that purpose must be fixed. It is enough to satisfy the statutory requirements that the Administrator finds that the prices fixed will tend to achieve that objective and will conform to those standards, and that the courts in an appropriate proceeding can see that substantial basis for those findings is not wanting."

The Court recognized that the ambit of authority conferred was very broad, but concluded that under the circumstances this degree of delegation was necessary.

"The Constitution as a continuously operative charter of government does not demand the impossible or the impracticable. It does not require that Congress find for itself every fact upon which it desires to base legislative action or that it make for itself detailed determinations which it has declared to be prerequisite to the application of the legislative policy to particular facts and circumstances impossible for Congress itself properly to investigate. . . .

". . . Acting within its constitutional power to fix prices it is for Congress to say whether the data on the basis of which prices are to be fixed are to be confined within a narrow or a broad range. In either case the only concern of courts is to ascertain whether the will of Congress has been obeyed. This depends not upon the breadth of the definition of the facts or conditions which the administrative officer is to find but upon the determination whether the definition sufficiently marks the field within which the Administrator is to act so that it may be known whether he has kept within it in compliance with the legislative will."

The Court's final conclusion on this point was that:

"The standards prescribed by the present Act, with the aid of the 'statement of considerations' required to be made by the Administrator, are sufficiently definite and precise to enable Congress, the courts and the public to ascertain whether the Administrator, in fixing the designated prices, has conformed to those standards."

II.

After examining the detailed provisions of the statute, the Court concluded that Congress had made it clear that the validity of a regulation could not be challenged unless a protest was first filed with the Administrator and then only by an appeal taken to the Emergency Court of Appeals. It held that this would be true even in a criminal case.

"Congress, in thus authorizing consideration by the district court of the validity of the Act alone, gave clear indication that the validity of the Administrator's regulations or orders should not be subject to attack in criminal prosecutions for their violation, at least before their invalidity had been adjudicated by recourse to the protest procedure prescribed by the statute. Such we conclude is the correct construction of the Act."

III.

The next question considered by the majority of the Court was whether this interpretation of the statute rendered it in violation of the constitutional safeguard of due process. The Court first reviewed the Congressional purposes in seeking to avoid both delay and confusion in any determination of the validity of any regulation which might be "subject to the exigencies and delays of litigation originating in 85 district courts and continued by separate appeals through 11 separate courts of appeals to this Court, to say nothing of litigation conducted in state courts."

The defendants argued that the protest and appeal procedure failed to afford due process for many reasons. It was urged that the sixty-day period for filing protests was insufficient; that the procedure before the Administrator was inadequate; that the Emergency Court of Appeals could not enjoin enforcement of the regulation while the appeal was pending; and that there was nothing to prevent a conviction for violation of a regulation even before a ruling could be secured on its validity from the Administrator or the Emergency Court.

To all of these objections the Court replied that the statute was valid on its face, and that

"A sufficient answer to all these contentions is that petitioners have failed to seek the administrative remedy and the statutory review which were open to them and that they have not shown that had they done so any of the consequences which they apprehend would have ensued to any extent whatever, or if they should, that the statute withholds judicial remedies adequate to protect petitioners' rights."

In determining that the Act was proper on its face, the Court noted that price regulations are published in the *Federal Register*, and thus all persons have constructive notice of them. It decided that the sixty-day period for protests was not unreasonably short, "in view of the urgency and exigencies of war-time price regulation." As to whether the administrative hearing would be adequate, the Court concluded that since no effort had been made to secure such hearing, it could not say that in any particular case such procedure would prove inadequate. Likewise, the Court suggested that the Administrator might suspend or stay a regulation on his own motion. Thus:

". . . we cannot assume that petitioners, had they applied to the Administrator, would not have secured all the relief to which they were entitled. The denial of a right to a restraining order or interlocutory injunction to one who has failed to apply for available administrative relief, not shown to be inadequate, is not a denial of due process."

The fact that Congress had denied to the Emergency Court the power to grant an injunction against the enforcement of the regulation, while an appeal was pending, was next considered; and the Court concluded that this was not a denial of due process, particularly in wartime.

IV.

The final question presented was whether Congress could constitutionally foreclose any consideration of the validity of a regulation where the defendant was criminally prosecuted and had not filed a protest and appealed to the Emergency Court of Appeals. In other words, whether it could constitutionally be provided that in a criminal proceeding for alleged violation of a regulation, the only issue which might be considered by the Court and jury was whether the defendant had wilfully violated such regulation. The Court carefully pointed out that it was not deciding whether a regulation, unconstitutional on its face, could or could not be challenged. Nor, it was made clear,

was it considering the case of one forced to trial and convicted of violating a regulation while he was diligently seeking a determination of its validity either before the Administrator or in the Emergency Court. The Court decided that the meat maximum price regulation involved in the case was not invalid on its face.

The final conclusion was that the requirement that every person must exhaust the administrative remedy (and do so within the 60-day period) and test the validity of a regulation only in the Emergency Court of Appeals, and could not thereafter challenge such regulation even in a criminal prosecution, violated neither the doctrine of separation of powers nor the requirement of the Sixth Amendment of a trial by jury. The Court pointed out that in many cases a constitutional right may be forfeited by failure to assert it in timely fashion. It particularly noted that for more than 50 years the Interstate Commerce Act had required that the validity of rates could be attacked only before the Interstate Commerce Commission, and that the validity of such rates could not be challenged in any criminal prosecution for failure to observe them. By analogy, the Court concluded that the procedure and prohibitions in the Emergency Price Control Act were constitutionally proper.

The Dissenting Opinions

Mr. Justice Roberts filed a vigorous dissenting opinion on the grounds that the Act failed to prescribe sufficiently precise standards for the Administrator's action, and that the provisions for judicial review were wholly ineffective to afford any real relief.

After pointing out that the validity of a regulation was wholly dependent "on the judgment of the Administrator as to the necessity or propriety of such price regulation in effectuating the purposes of the Act," Mr. Justice Roberts reviewed the stated purposes. As to the objective of stabilizing prices and preventing speculative, unwarranted, and abnormal increases, he concluded that:

"In order to exercise his power anent this purpose the Administrator will have to form a judgment as to what stabilization means, and what are speculative, unwarranted and abnormal increases in price. It hardly need be said that men may differ radically as to the connotation of these terms and that it would be very difficult to convict anyone of error of judgment in so classifying a given economic phenomenon."

As to the prevention of profiteering, hoarding, speculation or other practices, and the assurance that defense appropriations would not be dissipated, he said that:

"To accomplish this purpose the Administrator must form a judgment as to what constitutes profiteering, hoarding, manipulation or speculation. As if the administrative discretion were not sufficiently broad there is added the phrase 'other disruptive practices,' which seems to leave the Administrator at large in the formation of opinion as to whether any practice is disruptive.

* * *

"It is not clear—to me at least—what is the limit of this purpose [to protect defense appropriations]. I can conceive that an honest Administrator might, without laying himself open to the charge of exceeding his powers, make any kind of order or regulation based upon the view that otherwise defense appropriations by Congress might be dissipated by what he considers excessive prices. How his exercise of judgment in connection with this purpose could be thought excessive it is impossible for me to say."

As to the objectives that the price regulations were to be designed to protect persons with relatively fixed and limited incomes, consumers, wage earners, investors, and persons depending upon insurance and annuities, the dissenting Justice remarked that:

"The Administrator's judgment that any price policy will tend to affect the classes mentioned in this purpose from what he may decide to be 'undue impairment of their standard of living' would seem to be so sweeping that it would be impossible to convict him of an error of judgment in any conclusion he might reach."

Similarly, he suggested as to the purpose of preventing:

'. . . hardships to persons engaged in business, to schools, universities, and other institutions, and to the Federal, State, and local governments, which would result from abnormal increases in prices;'

"Of course, Congress might have included in the catalogue of beneficiaries churches, hospitals, labor unions, banks and trust companies and other praiseworthy organizations, without rendering the 'standard' any more vague."

Mr. Justice Roberts dealt with the last two purposes by noting that the Administrator was:

'to assist in securing adequate production of commodities and facilities;'

"Here is a purpose which seems, to some extent at least, to permit the easing of price restrictions; for it would appear that diminishment of price would hardly assist in promoting production. Thus the Administrator, and he alone, is to balance two competing policies and strike the happy mean between them. Who shall say his conclusion is so indubitably wrong as to be properly characterized as 'arbitrary or capricious'?"

'to prevent a post emergency collapse of values;'

"This purpose, or 'standard', seems to permit adoption by the Administrator of any conceivable policy. I have difficulty in envisaging any price policy in support of which some economic data or opinion could not be cited to show that it would tend to prevent post emergency collapse of values."

His final conclusion on this point was that

"Reflection will demonstrate that in fact the Act sets no limits upon the discretion or judgment of the Administrator. His commission is to take any action with respect to prices which he believes will preserve what he deems a sound economy during the emergency and prevent what he considers to be a disruption of such a sound economy in the post war period. His judgment, founded, as it may be, on his studies and investigations, as well as other economic data, even though contrary to the great weight of current opinion or authority, is the final touchstone of the validity of his action."

As to the administrative protest procedure, the dissenting Justice reviewed the basis on which regulations might be issued, pointing out that the statement of considerations required was not a finding but merely a statement of reasons, and concluded that the record which would be made in a protest proceeding would be, in his opinion, completely one-sided.

"And it is to be observed that, after seeing the protestant's affidavits and the evidence, the Administrator may load the record with all sorts of material, articles, opinions, compilations, and what not—pure hearsay—subject to no cross-examination, to persuade the court that his order could, 'in his judgment', promote one of the 'purposes' of the Act.

"Thus is the 'record' weighted against formal complaint in court."

When the denial of a protest is reviewed by the Emergency Court of Appeals, Mr. Justice Roberts suggested that an almost impossible burden of proof was placed upon the protestant. He stated that "a procedure better designed to prevent the making of an issue between the parties can hardly be conceived." His final conclusion as to the worth of the remedy provided was that:

"When these cumulative burdens placed upon the protestant who seeks review are fairly appraised it becomes apparent that he must carry an insupportable load, and that, in truth, the court review is a solemn farce in which the Emergency Court of Appeals, and

this court, on certiorari, must go through a series of motions which look like judicial review but in fact are nothing but a catalogue of reasons why, under the scheme of the Act, the courts are unable to say that the Administrator has exceeded the discretion vested in him.

"No court is competent, on a mass of economic opinion consisting of studies by subordinates of the Administrator, charts and graphs prepared in support of the studies, and economic essays gathered hither and yon, to demonstrate, beyond doubt, that the considerations or conclusions of the Administrator from such material cannot support the Administrator's judgment that what he has done by way of regulation or price schedule tends to prevent post war collapse of values, or to prevent dissipation of defense appropriations through excessive prices, or to prevent impairment of the standard of living of persons dependent on life insurance, or to prevent hardship to schools—to enumerate but a few of the stated purposes of the Act.

"It is not surprising that, in the thirty-one cases decided by the Emergency Court of Appeals of which I have found reports, complaints have been dismissed in twenty-eight, and but three have been remanded to the Administrator for further proceedings. Two of the three involved no question of merits under the statutory provisions."

* * *

"I am sure that my brethren, no more than I, would say that Congress may set aside the Constitution during war. If not, may it suspend any of its provisions? The question deserves a fair answer. My view is that it may not suspend any of the provisions of the instrument. What any of the branches of government do in war must find warrant in the charter and not in its nullification, either directly or stealthily by evasion and equivocation. But if the court puts its decision on the war power I think it should say so. The citizens of this country will then know that in war the function of legislation may be surrendered to an autocrat whose 'judgment' will constitute the law; and that his judgment will be enforced by Federal officials pursuant to civil judgments, and criminal punishments will be imposed by courts as matters of routine.

"If, on the contrary, such a delegation as is here disclosed is to be sustained even in peacetime, we should know it."

Mr. Justice Rutledge's Views

Mr. Justice Rutledge, with whom Mr. Justice Murphy joined, dissented on the basis that while he thought the Act was constitutionally proper in its delegation, during war-time, of broad powers to the Administrator, the procedural provisions of the statute were unconstitutional. He pointed out that these provisions were unique.

"Congress sought to accomplish two procedural objectives. One was to afford a narrow but sufficient method for securing review and revision of the regulations. At the same time, the Act created broad and ready methods for enforcement. The short effect of the procedure is to give the individual a single channel for questioning the validity of a regulation, through the protest procedure and the Emergency Court of Appeals, with review of its decisions here on certiorari. Section 204. On the other hand, the varied and widely available means for enforcement include criminal proceedings, suits in equity, and suits for recovery of civil penalties, in the Federal district courts and in the State courts. Section 205(a), (b), (c). See also Section 205(d), (e), (f). And in all these enforcement proceedings the mandate of Section 204(d) is that the court shall have no 'jurisdiction or power to consider the validity of' a regulation, order or price schedule. The statute thus affords the individual, to question a regulation's validity, one route and that a very narrow one, open only briefly. The Administrator and others, to enforce it, have many. And in the enforcement proceedings the issues are cut down so that, in a practical sense, little else than the fact whether a violation of the regulation as written has occurred or is threatened, may be inquired into."

Examining these portions of the Act, Mr. Justice Rutledge concluded that Congress might have properly conferred upon a single Federal court the exclusive jurisdiction to determine all cases arising under the statute, and to deny jurisdiction to all other courts. Moreover, the fact that no injunctions could be issued pending determination of validity did not disturb him.

"Confronted as the nation was with the imminent danger of inflation and therefore the necessity that price controls should become effective at once and continue so without interruption at least until invalidated in particular instances, Congress could require individuals to sustain, in deference to the paramount public interest, whatever harm might ensue during the period of litigation and until each had demonstrated the invalidity of the regulation as it affected himself. Runaway inflation could not have been avoided in any other way. The lid had to go on, go on tight and stay tight. This necessity united with the general presumption of validity which attaches to legislation and Congress' power to control the jurisdiction of the courts to sustain its denial of power to all courts, including the enforcing courts, the Emergency Court and this one, to suspend operation of the regulations pending final determination of validity."

Yet in the opinion of these two dissenting justices, the splitting up of the review and enforcement powers between the Emergency Court and all other courts was improper.

"It is one thing for Congress to withhold jurisdiction. It is entirely another to confer it and direct that it be exercised in a manner inconsistent with constitutional requirements or, what in some instances may be the same thing, without regard to them. Once it is held that Congress can require the courts criminally to enforce unconstitutional laws or statutes, including regulations, or to do so without regard for their validity, the way will have been found to circumvent the supreme law and, what is more, to make the courts parties to doing so. This Congress cannot do. There are limits to the judicial power. Congress may impose others. And in some matters Congress or the President has final say under the Constitution. But whenever the judicial power is called into play, it is responsible directly to the fundamental law and no other authority can intervene to force or authorize the judicial body to disregard it. The problem therefore is not solely one of individual right or due process of law. It is equally one of the separation and independence of the powers of government and of the constitutional integrity of the judicial process, more especially in criminal trials."

The basic constitutional problem was stated by Mr. Justice Rutledge in broad terms:

"If I understand it, the argument to sustain the conviction, in its broadest form, rests upon the proposition that Congress, by providing in one proceeding a constitutionally adequate mode for deciding upon the validity of a law or regulation, and requiring this to be followed within a limited time, can cut off all other right to question it and make that determination, or the failure to secure it in time, conclusive for all purposes and in all other proceedings. The proposition cannot be accepted in that broad form. To do so would mean, for instance, that if in this case a regulation had prescribed one maximum price for sales by merchants of one race or religion and a lower one for distributors of another, the judicial power of the United States would have to be exercised to convict the latter for selling at the former's price, if they had not availed themselves of the limited review afforded by this Act. It hardly would be consistent with accepted ideas of due process or equal protection for any court to impose penalty or restraint in such a case. And I cannot imagine this Court as sustaining such a conviction or any other as imposing it."

He thought the opportunity to file a protest and to appeal to the Emergency Court were both "short-cut proceedings, trimmed almost to the bone of due process, even for wholly civil purposes, and pared down further by a short statute of limitations." He suggested that:

"A procedure so summary, imposing such risks, does not meet the requirements heretofore considered essential to the determination or foreclosure of issues material to guilt in criminal causes. It makes no difference that petitioners did not follow the special procedure. The very question, posed in the Court's own terms, is whether, if they had followed it, the remedy would be adequate constitutionally. It cannot be, under previously accepted ideas, if for one who follows it to a favorable judgment the penalty yet may fall. That question the Court does not decide. Unless it is decided, the question of adequacy, in any sense heretofore received, has not been determined, or an entirely new conception of adequacy has been approved."

Finally, Justices Rutledge and Murphy thought that the failure of the defendants to follow the administrative remedy was immaterial, and that in criminal prosecutions all defenses should be open. He suggested that if Congress could segregate the issues which might be tried in a criminal proceeding and those which might be tried in an administratve review proceeding, it might remove from the jurisdiction of the court trying the criminal case almost all questions of law.

"A procedure so piecemeal, so chopped up, so disruptive of constitutional guaranties in relation to trials for crime, should not and, in my judgment, cannot be validated, as to such proceedings, under the Constitution. Even war does not suspend the protections which are inherently part and parcel of our criminal process. . . .

* * *

"The procedural pattern is one which may be adapted to the trial of almost any crime. Once approved, it is bound to spawn progeny. If in one case Congress thus can withdraw from the criminal court the power to consider the validity of the regulations on which the charge is based, it can do so for other cases, unless limitations are pointed out clearly and specifically. And it can do so for statutes as well."

Pointing out that different considerations might be applied to civil proceedings, Mr. Justice Rutledge concluded his opinion by stating:

"War requires much of the citizen. He surrenders rights for the time being to secure their more permanent establishment. Most men do so freely. According to our plan others must do so also, as far as the nation's safety requires. But the surrender is neither permanent nor total. The great liberties of speech and the press are curtailed but not denied. Religious freedom remains a living thing. With these, in our system, rank the elemental protections thrown about the citizen charged with crime, more especially those forged on history's anvil in great crises. They secure fair play to the guilty and vindication for the innocent. By one means only may they be suspended, even when chaos threatens. Whatever else seeks to dispense with them or materially impair their integrity should fail. Not yet has the war brought extremity that demands or permits them to be put aside. Nor does maintaining price control require this. The effect, though not intended, of the provision which forbids a criminal court to 'consider the validity' of the law on which the charge of crime is founded, in my opinion, would be greatly to impair these securities. Hence I cannot assent to that provision as valid."

The Rent Control Case

In the companion case of *Bowles* v. *Willingham*, the Supreme Court, by an eight to one vote, held the rent control provisions of the Emergency Price Control Act likewise to be constitutional. Speaking for the majority, Mr. Justice Douglas reviewed the provisions for rent control, pointing out that they were somewhat similar to those covering price control. In passing upon the constitutionality of such provisions, the Court relied upon its decision rendered the same day in the price control case.

Mr. Justice Rutledge concurred separately and distinguished the rent case, which involved a civil action for an injunction, from the price control case, which involved a criminal prosecution. He concluded that the limitation in the Act, requiring that the administrative remedy and appeal to the Emergency Court be exclusively employed, was constitutionally proper in such civil cases.

Mr. Justice Roberts dissented on the ground that the standards for prescribing rent control were not sufficiently precise for constitutional validity, and that the Administrator had been given unlimited authority to determine what was a "defense rental area", and what was a fair rental. He concluded that "this Act creates personal Government by a petty tyrant instead of Government by law", and that:

"One only need read the decisions of the Emergency Court of Appeals to learn how futile it is for the citizens to attempt to convict the Administrator of an abuse of judgment in framing his orders, how illusory the purported judicial review is in fact."

WFA Purchasing Seed Peas

The War Food Administration announced March 25 that purchases of approximately 2,500,000 pounds of smooth seed peas and 1,000,000 pounds of wrinkled seed peas are contemplated for delivery between May 1 and July 15, 1944.

CONGRESS SUMMARY

CCC Capital Unrestored; Agricultural Appropriation Bill Passed

Capital impairment of the Commodity Credit Corporation, resulting from CCC purchase and sales at a loss of commodities, particularly wheat, was not restored by Congress in enacting the First Deficiency Appropriation Act on March 29. During the past week, the Congress also passed, without extended debate, the 1944 Appropriation Act in which no further appropriation was made for parity payments to farmers because the prices of agricultural commodities are now above parity.

The CCC capital restoration was passed by the Senate, but was rejected by the House in conference. Under present law, the authorized capital of the CCC may be restored by appropriations whenever the capital becomes reduced.

Gen. Young Takes Eastman Post

Brig. Gen. Charles D. Young, USA retired, has been designated by President Roosevelt as Acting Director of the Office of Defense Transportation, succeeding the late Joseph B. Eastman. General Young, who was first associated with ODT shortly after its establishment, December 18, 1941, has been its Deputy Director since January, 1943.

He has had a long experience in the transportation field. Starting his career with the Pennsylvania Railroad in 1900 as a special apprentice in the mechanical department, he has continued in its service ever since, except for periods of Army and government assignment in both wars.

Dr. O. E. May to Succeed Skinner

Dr. O. E. May has been appointed chief of the Bureau of Agricultural and *Industrial Chemistry to succeed Dr.* W. W. Skinner, whose retirement on March 31 was reported in the INFORMATION LETTER for March 18.

As coordinator of chemical and chemical engineering research programs in the Agricultural Research Administration since 1942, Dr. May has had close contact with industry and with other government agencies. In addition to other duties, he will direct the work of the Department's four regional research laboratories, which deal with industrial and food uses of agricultural products and byproducts.

Preference Ratings Obtainable for Class B Facilities

Canners who wish to manufacture Class B facilities for their own use when they are not in the regular business of manufacturing such facilities, may now obtain preference ratings and allotments of controlled materials for their manufacture, according to CMP Regulation 1, Direction 34, as amended March 28, by the War Production Board.

Items of canning equipment, as classified in Limitation Order L-292, are Class B products, and the canner, in order to obtain the controlled materials to manufacture them for his own use, will have to file a WPB-576 application, just as though he were purchasing the facilities. In conjunction with the filing of the WPB-576 application, it will be necessary to file a CMP-4A application for an allotment of the controlled material to make the facility.

These applications are processed in the same manner as are applications for the purchase of canning machinery and equipment. Full text of the amended Direction appears in the *Federal Register* for March 29.

Combined Export Ration Order

Regulations covering the export of rationed foods are now consolidated in a single ration order, the Office of Price Administration announced April 1. This is accomplished by General Ration Order 17 (Export of Rationed Food); Amendment 6 to Revised Ration Order 3 (Sugar); Amendment 19 to Revised Ration Order 13 (Processed Foods); and Amendment 121 to RO 16 (Meats and Fats), all effective April 5, 1944.

The new order includes procedures previously contained in RO-3, RO-13, and RO-16, and provides a uniform system for acquiring all rationed foods for export as well as for replacing foods which dealers export.

Wilson Heads WPB Division

Arthur J. Wilson, former chief of the Production Control Branch of the War Production Board's Radio and Radar Division, has been appointed director of the Board's Production Scheduling Division, it was announced March 16. Mr. Wilson replaces Robert M. Hatfield, of Lakewood, Ohio, who has resigned his post to accept a commission in the Navy.

At the same time that the appointment of Mr. Wilson was announced, Stuart S. Lowe, of Cincinnati, Ohio, who has been in the Production Scheduling Division since its formation, was appointed deputy director of the division. Mr. Lowe has been acting deputy director for several months.

1944 Allotment of Sugar for Home Canning Is Same as 1943

Sugar for home canning will be made available to consumers at the same rate as last year, and in much the same way, the Office of Price Administration announced March 19. Five pounds of sugar for home canning may be bought with Sugar Stamp 40 in War Ration Book Four. The remainder—a maximum of 20 pounds of sugar per person—will be granted on application to local War Price and Rationing Boards any time after March 23.

"We have again set aside substantial amounts of sugar for home canning this year," said Price Administrator Chester Bowles, "in spite of the limited supply of sugar for civilian use. This is being done because of the importance of home canning in the country's wartime food program.

"Last year, housewives added an estimated three and a half billion jars of home canned fruits and vegetables to the total processed food supply—and about 500,000,000 jars of preserves of all kinds. This doesn't equal the amount of commercially processed food that civilians had this past year, of course, but it approaches that goal. In effect, it nearly doubles the total amount of canned foods and jams and jellies that civilians had last year. The immensity of this job cannot be overstated.

"This year, the need for producing large amounts of home canned foods is greater than before. It's true that commercial production is expected to be high—but so are military and Lend-lease requirements. It takes a lot of food to feed an army the size of ours, —and it's getting bigger all the time.

"We have estimated that enough sugar has been earmarked to do an adequate home canning job this year. The maximum amount allowed will be needed only by families who have large amounts of fresh fruits available. Such families will be able to put up their entire year's requirements of fruits and fruit spreads. Many families will do little canning—some none at all. The total amount set aside will be enough to meet these varying needs—but only if none is diverted to other uses," Mr. Bowles stated.

Ceilings Are Established for Macerated and Pitted Dates

Maximum prices, substantially above 1942 levels, have been established by the Office of Price Administration for pre-wholesale sales of pitted and macerated domestic dates and date products of the 1943 and later crops, in Maximum Price Regulation No. 521, which became effective March 18.

Dates used in the products thus priced are No. 2 domestic dates. There is no price control on other types of dates and none on any kind of fresh dates. Maximum prices will be established later, OPA said, for all dates, including fresh.

The new ceiling price for processors is 35½ cents per pound for the products in bulk or in packages containing more than one pound, and 38 cents per pound for packages of one pound or less. Formerly, the prices were 28½ cents and 31 cents.

The new processor price for macerated dates is 21 cents per pound as compared with the former price of 15 cents per pound.

The existing processor ceiling price of 28 cents per pound for pitted bulk dates has not been changed. The ceiling on pitted dates in containers of one pound or less has been reduced from 48 cents per pound to 28 cents per pound plus a packaging allowance of seven cents per package. This allowance includes both labor and materials at 1942 rates and is based on cost figures obtained from industry members.

Thermometer Production Restrictions Are Eased

Standardization restrictions on the production of general purpose thermometers have been removed by the War Production Board. The action was taken by deleting these thermometers from Schedule VII to Limitation Order L-272.

Schedule VII continues to govern production of industrial thermometers. The complete restriction on the use of copper base alloy for industrial thermometer cases and case fronts was replaced in the revised order by a clause that limits the composition of such alloy to maximums of 74 per cent copper and 1½ per cent tin. This will not result in any appreciable increase in the use of copper base alloy, since some manufacturers in situations where the use of substitute materials was impractical have obtained copper base alloy through appeal to WPB.